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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,325

08/27/2003

Jurgen Moser

60,130-1860;02MRA0250/023

4557

26096

7590

05/18/2005

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EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/649,325

**Applicant(s)**

MOSER ET AL.

**Examiner**

Jerry Redman

**Art Unit**

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-13 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 14 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 7-10, 13, 16, 17, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by German patent to Lange et al. (DE 19650265). As shown in Figure 2, German patent to Lange et al. (DE 19650265) disclose a carriage for a window lifter comprising a base part (20) moveably mounted on a rail (8) in a vehicle, a clamping part (9b) swiveling mounted (allows for at least two positions since the clamping part and base part rotate with respect to each other) on the base part (20)(fasteners mount the base plate and the clamping part together as shown via axis in figure 2), and an arresting mechanism (the fastener/clamping nut, bolt, and bore, the ridge/tab at element 90a which fits within recess at element 96 which has a circular portion and which allows swiveling). German patent to Lange et al. (DE 19650265) further disclose a nipple holder (12a or 12b) "adapted to receive a cable". German patent to Lange et al. (DE 19650265) still further disclose a resilient pad (3) forming a pocket. German patent to Lange et al. (DE 19650265) yet still further discloses the carriage adjusted along the rail in a direction transverse to an axis of bore (since the carriage provides adjustment

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about a swiveling point the pads move along a direction which is parallel to the pane along a bottom edge as well as the entire carriage being adjustable in a to and fro direction with respect to the front/rear of the vehicle door panel.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over German patent to Lange et al. (DE 19650265) in view of Shibnushi. All of the elements of the instant invention are discussed in detail above except providing a barb(s) on the base part for engaging the pad in two positions. As shown in Figure 7, Shibnushi discloses a base part for mounting a pad and window pane and the base part has barbs which allows the pad to be positioned at any position along the base. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the base part of German patent to Lange et al. (DE 19650265) with barbs as taught by Shibnushi since barbs provides a more rigid connection between the base part, pad, and window pane.

Claims 5, 6, 14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than the claims. The applicant is correct in stating that the rail of German patent to Lange et al. (DE 19650265) should have been "8" and not "1" (it has been corrected above) but the base part (20) is movably mounted to the rail (8). The base part (20) definitely moves along the rail since the base part (20) is attached to the window pane and the entire assembly is "movably mounted" thereto. The applicant continues to argue that the clamping part (9b) is not mounted to the base part (20) yet figure 3 discloses an axis line of where the components are "attached" together to form the carriage. The applicant appears to argue limitations, which are not in the claims. Still furthermore, the applicant states that clamping jaw (2) cannot be mounted to component 9a in multiple positions. Firstly, it appears that the applicant means clamping part and not clamping jaw and furthermore it appears that the applicant means element 9b and not element 2. Assuming that the applicant is arguing that the clamping part 9b cannot be mounted to component 9a in multiple positions is not readily understood by the Examiner since the clamping part 9b is rotatably mounted thereto.


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.



**Jerry Redman**  
**Primary Examiner**